

# The Bank Secrecy Act

## USA PATRIOT Act

### Office of Foreign Assets Control

### History of the Bank Secrecy Act

<b>1970</b>	Large currency deposits of illicit profits	<i>Bank Secrecy Act (BSA) enacted</i>	<b>1994</b>	Law enforcement focuses on criminal abuse of MSBs CTR exemption process is a burden for financial community	<i>Enact Money Laundering Suppression Act</i> - MSB registration CTR filing required.
<b>1974</b>	Constitutionality of Bank Secrecy Act questioned	<i>U.S. Supreme Court holds BSA to be constitutional</i>	<b>1994</b>	Improve cooperation and coordination between regulatory, financial and law enforcement communities	<i>Merge Treasury's Office of Financial Enforcement with FinCEN</i> - FinCEN's Mission expanded to include regulatory authority
<b>1986</b>	Law Enforcement looks for new weapons to combat drug trafficking	<i>Enact Money Laundering Control Act</i>	<b>1998</b>	Improve coordination of federal, state and local efforts and resources to combat financial crimes	<i>Enact Money Laundering &amp; Financial Crimes Strategy Act</i> - National Money Laundering strategy established - HFCA system created
<b>1990</b>	Insufficient intelligence analysis and resources to support financial investigations	<i>Create Financial Crimes Enforcement Network (FinCEN)</i>	<b>2001</b>	Terrorists attack the World Trade Center & Pentagon	<i>Enact Patriot Act</i> - Information Sharing - Registration requirements for underground money transmitters - FinCEN becomes a bureau
<b>1992</b>	Law enforcement needs more information on suspicious transactions to support financial investigations	<i>Enact Annunzio-Wylie Money Laundering Suppression Act</i> - Suspicious activity reporting required			



## How big of a problem is Money Laundering?



The aggregate size of money laundering in the world is somewhere between 2% and 5% of the World's gross domestic product.





## Regulations

- Bank Secrecy Act
- USA PATRIOT Act
  - Customer Identification Programs
  - Information Sharing
- Office of Foreign Assets Control

# Bank Secrecy Act

- **Currency Transactions for more than \$10,000 (CTR)**
- **Multiple currency transactions more than \$10,000**
- **Purchase/Sale of Monetary Instruments \$3,000 - \$10,000**
- **Report of International Transportation of Currency and Monetary Instrument Report (CMIR).**
- **Suspicious Activity Reports (SAR)**

## Notice to Customers: A CTR Reference Guide

### Why is my financial institution asking me for identification and personal information?

Federal law requires financial institutions to report currency (cash or coin) transactions over \$10,000 conducted by, or on behalf of, one person, as well as multiple currency transactions that aggregate to be over \$10,000 in a single day. These transactions are reported on Currency Transaction Reports (CTRs). The federal law requiring these reports was passed to safeguard the financial industry from threats posed by money laundering and other financial crime. To comply with this law, financial institutions must obtain personal identification information about the individual conducting the transaction such as a Social Security number as well as a driver's license or other government issued document. This requirement applies whether the individual conducting the transaction has an account relationship with the institution or not.

There is no general prohibition against handling large amounts of currency and the filing of a CTR is required regardless of the reasons for the currency transaction. The financial institution collects this information in a manner consistent with a customer's right to financial privacy.

### Can I break up my currency transactions into multiple, smaller amounts to avoid being reported to the government?

No. This is called "structuring." Federal law makes it a crime to break up transactions into smaller amounts for the purpose of evading the CTR reporting requirement and this may lead to a required disclosure from the financial institution to the government. Structuring transactions to prevent a CTR from being reported can result in imprisonment for not more than five years and/or a fine of up to \$250,000. If structuring involves more than \$100,000 in a twelve month period or is performed while violating another law of the United States, the penalty is doubled.



[www.fincen.gov](http://www.fincen.gov)



## New Brochure on CTRS & Structuring Published by FinCEN

## USA PATRIOT Act Customer Identification Programs

### Individuals

- Name
- Physical Address
- Tax ID Number
- Date of Birth

### Businesses

- Name
- Physical Address
- Tax ID Number
- Legal Existence

## USA PATRIOT Act Verification of Identity

### Documentary

- **Unexpired government-issued identification.**
- **For non-individuals – documents showing evidence of the entity.**

### Non-Documentary

- **Contacting the customer,**
- **Obtaining a financial statement,**
- **Comparing information with fraud and bad check databases,**
- **Comparing information with third party sources, and/or**
- **Checking references with other financial institutions.**

## Information Sharing

### 314(a)

- Mandatory
- Sharing Information with Law Enforcement

- List is for Money Launderers & Terrorists
- A one time review
- Not A “blacklist”
- Banks may open accounts

### 314(b)

- Optional
- Sharing Information with other Financial Institutions

## Office of Foreign Assets Control OFAC

- Division of U.S. Treasury
- Responsible for administering and enforcing a series of laws that impose economic sanctions against hostile targets
- Sanctions act as a means to enforce U.S. foreign policy and national security objectives
- Operates under Presidential wartime & emergency powers & specific legislation to impose controls on transactions and freeze foreign asset under U.S. jurisdiction





**OFFICE OF FOREIGN ASSETS CONTROL**  
**SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS**

July 29, 2003

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***It is simply illegal for any U.S. financial institution to process a transaction for someone on the OFAC list, regardless of whether the bank is aware that the person is on the list or not.***

## Expanding Bank Products/Services

- Money Service Businesses
- Stored Value Cards
- Wire Services



## **MSB Risks**

- **Cash Intensive**
- **Unknown Customer Base**
- **Limited or Inconsistent Records**
- **Relatively Unregulated**

## **Stored Value Cards**

- **Open vs. Closed Systems**
- **Cards are not considered currency**
- **Sales are not restricted to customers**
- **May have no limits on purchases**

**SAR Bulletin**  
Information drawn from the Suspicious Activity Reporting System

June 2001 Issue 3

**Suspicious Activity Related to Phone Card Businesses**

A review of Suspicious Activity Reports (SARs) filed with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) identified over 160 reports indicating suspicious financial activity related to businesses involved in phone card sales. Some of the companies or businesses involved in the reported activity offer other services such as check cashing, money orders, fax services, and telephony services.

Financial institutions that may reflect the use of phone card businesses falls into the following categories:

- unusual deposit of funds into or withdrawal of funds from bank accounts maintained by businesses engaged in phone card activity;
- cash deposits of large amounts;
- unexpected check cashing activity occurring at businesses whose principal activity is phone card sales;
- small retailers suddenly or irregularly experiencing high volumes of phone card sales, with accompanying major increases in cash deposits.

The reported dollar volumes associated with these activities range from

**MONEY LAUNDERING  
TOOL OF CHOICE**

**STORED VALUE CARDS**

Gift Cards  
Phone Cards  
Travel Cards

## Wire Transfers

- Ability to move large sum of money quickly
- Move funds internationally
- Used to “layer” funds in Money Laundering
- Review Common Addresses/ Common Beneficiaries
- Does the transaction make sense for this customer?

## Bottom Line

- Suspicious Activity Reports (SARs) are reviewed by Law Enforcement
- Law Enforcement uses SARs to track illegal proceeds, solve crimes and identify terrorism
- Banks need to know their customers and the nature of their activity
- To determine if the activity is suspicious and whether Law Enforcement should be notified

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